



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CardioMetrix
File: B-242678; B-242678.2
Date: May 17, 1991

Robert J. Loring for the protester.
Timothy E. Sigur for Alpha Scanning Service, Inc., an interested party.
Herbert F. Kelley, Jr., Esq., and Capt. Sophia L. Rafatjah, Esq., Department of the Army, for the agency.
Robert C. Arsenoff, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest against specifications requiring a contractor-provided personal computer as part of electrocardiogram (EKG) monitoring services is denied where protester presents no substantive rebuttal to agency's explanation that the equipment is necessary to meet its minimum needs for reanalyzing EKG data in emergency cases.

DECISION

CardioMetrix protests the terms of invitation for bids (IFB) No. DAKF24-91-B-0029, issued by the Department of the Army to provide medical services and related equipment at its hospital servicing Fort Polk, Louisiana, to perform "Holter monitoring"--a type of 24-hour continuous electrocardiogram (EKG) which is electronically recorded and analyzed. The protester principally objects to the specification requirement for a contractor-provided personal computer (PC) at the hospital capable of EKG report analysis, which it views as overstating the agency's minimum needs.

We deny the protests in part and dismiss them in part.

The IFB for EKG monitoring services and related equipment was issued on December 27, 1990, with an original bid opening date scheduled for January 14, 1991. As issued, it basically provided for Army doctors to make EKG recordings using contractor-provided equipment, for the hospital to ship the recorded EKG tapes to the contractor who would then scan them and send an electronic report to the hospital's contractor-provided "repeater" equipment with a hardcopy paper report to

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follow. The IFB was amended on January 8 to extend bid opening to January 18 and revise the specifications to replace the required "repeater" with a PC and to shorten the time in which EKG reports were due back to the hospital at Fort Polk.

At this stage of the procurement, on January 15, CardioMetrix filed its first protest (B-242678.1) alleging that the PC requirement, or any requirement for the telephonic transmission of EKG reports, was superfluous to the agency's needs; the protester also alleged that language in portions of the IFB relating to tape shipment and retesting was defective. In response to the first protest, the IFB was amended to postpone bid opening indefinitely; it was also subsequently amended to correct the language discrepancies relating to shipment and retesting and to further revise the specifications to require that the contractor furnish a PC capable of analyzing EKG report data on demand at the hospital.

On March 4, the protester filed its comments on the agency report together with a second protest (B-242678.2) challenging the amended requirements for a PC capable of EKG report analysis. The second challenge was also based on the protester's view that the agency's minimum needs had been exceeded by its specifications. In addition, CardioMetrix alleged that the IFB was defective since it did not specify a make and model number for the PC sought by the Army and since it did not adequately define what type of Holter analysis report the agency desired from the PC.

At the outset, we note that through amendment, the Army rectified the language deficiencies in the IFB raised by the protester with respect to shipping and retesting. Thus, we dismiss these allegations as academic. Morrison Constr. Servs., Inc., B-240789, Dec. 18, 1990, 70 Comp. Gen. ___, 90-2 CPD ¶ 499.


With respect to CardioMetrix's objections to the PC requirements as overstatements of the Army's minimum needs, the determination of such needs and the best methods to accommodate them are primarily the responsibility of the contracting agency and, therefore, we will not question such a determination unless the record clearly shows that it was without a reasonable basis. MVM, Inc. et al., B-237620, Mar. 13, 1990, 90-1 CPD ¶ 270. A protester's disagreement with the agency's determination as to its needs does not, in itself, serve to render the determination unreasonable. This is especially the case in procurements such as this which involve the agency's judgment as to its medical needs. See CardioMetrix, B-234620, May 1, 1989, 89-1 CPD ¶ 415.

The protester's challenge to the requirement for the electronic transmission of EKG reports and the installation of a PC capable of analysis results from its view the submission of a hardcopy report will provide all data that is actually needed for the hospital. The agency explains that, with a PC capable of analyzing EKG report data a physician can, especially in selected emergency cases when time is of the essence, perform the medically necessary reanalysis of EKG data recorded on a particular patient--something which cannot be done in a matter of minutes with only a hardcopy EKG report. Our review of the protester's responses to this explanation indicates that, while CardioMetrix generally objects to the need for such a computer-based analysis system in the abstract, it provides no substantive rebuttal to the explanation of minimum needs proffered by the agency in terms of the resources it requires to promptly provide necessary medical care. Thus, we have no basis for objecting to the Army's conclusion that its medical requirements include the use of a PC in the manner specified. MVM, Inc. et al., B-237620, supra.

As for the protester's suggestions in its second protest that the Army failed to adequately describe the make and model of the analytical PC system it sought or that it failed to adequately describe the type of EKG reports it needed, these issues were addressed in the second agency report and the protester chose not to comment on the Army's explanation in its final comments; accordingly, we deem them abandoned by CardioMetrix and will not consider them further. Robertson & Penn, Inc., B-234062, Apr. 10, 1989, 89-1 CPD ¶ 365.

Finally, in its comments on the second agency report, CardioMetrix for the first time suggests that the Army's requirement for a contractor-provided PC as part of the hospital-based Holter monitoring system is restrictive of competition since, in the protester's view, only the incumbent contractor or other, unspecified, local firms, could meet such a requirement. Since we have already determined that the agency's specifications reasonably reflect its minimum needs, even if some potential competitors may be unable to meet the specifications this simply does not demonstrate an impropriety in the procurement. John F. Kenefick Photogrammetric Consultant, Inc., B-238384, May 4, 1990, 90-1 CPD ¶ 452; CardioMetrix, B-234620, supra.

The protests are denied in part and dismissed in part.


for James F. Hinchman
General Counsel